



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Brinks Hofer Gilson & Lione
Post Office Box 10395
Chicago IL 60610

MAILED

JUN 08 2009

OFFICE OF PETITIONS

In re Patent No. 7,394,448 :
Park et al. : DECISION ON
Application No. 10/734702 : REQUEST FOR
Issue Date: July 1, 2008 : RECONSIDERATION OF
Filed: December 11, 2003 : PATENT TERM ADJUSTMENT
Attorney Docket No. 10125/4125: UNDER 37 CFR 1.705(d)

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed September 2, 2008. This matter is being properly treated as an application for patent term adjustment in accordance with 37 CFR 1.705(d).

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,394,448 on July 1, 2008. The instant request for reconsideration was timely filed in accordance with 37 C.F.R. § 1.705(d). The patent issued with a patent term adjustment of 578 days. Patentees argue that the patent is entitled to an adjustment of 564 days pursuant to 37 CFR § 1.703(b).

At the time of issuance, the patent was entitled to 578 days of adjustment, as reflected on the patent.

Patentee argues that the patent is entitled to an additional adjustment of 564 days in accordance with 37 CFR 1.703(b) for failure to issue the patent within three years of the date upon which the application for patent was filed.

Patentee's arguments have been carefully considered, but are not convincing.

If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B) (and 37 C.F.R. § 1.704(b)), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the application that overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See, 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See, also, *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Red. Reg. 21704 (April 22, 2004).

In view thereof, the instant patent is not entitled to further adjustment.

Any request for reconsideration of this decision must be submitted within two months of the mail date of the instant decision. The time period for reconsideration may not be extended pursuant to 37 CFR 1.136.

The required patent term adjustment application fee of \$200.00 has been charged to patentee's deposit account, as authorized.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.



Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy